



Materials for

CRIMINAL LAW: FAULT AND RESPONSIBILITY

Faculty of Law
University of Toronto

Fall 1996

Hamish Stewart
John Norris

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Law, University of Toronto

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Syllabus and Table of Contents

4 Sept. Week 0 (No readings)

I. Intention, Recklessness, and Negligence

11 Sept. Week 1: Intention

<i>Hyam v. D.P.P.</i> , [1975] A.C. 55 (H.L.)	1
<i>R. v. Buzzanga and Durocher</i> (1979), 49 C.C.C. (2d) 369 (Ont.C.A.)	24
H.L.A. Hart, "Intention and Punishment", in <i>Punishment and Responsibility</i> (Oxford: Clarendon Press, 1968) 113	36

18 Sept. Week 2: Intention, continued

George Fletcher, <i>Rethinking Criminal Law</i> (Boston: Little, Brown, 1978), §6.5	51
R.A. Duff, <i>Intention, Agency and Criminal Liability</i> (Oxford: Basil Blackwell, 1990), Chapters 4 and 5	63

25 Sept. Week 3: Recklessness

<i>Sansregret v. R.</i> (1985), 18 C.C.C. (3d) 223 (S.C.C.)	93
R.A. Duff, <i>Intention, Agency and Criminal Liability</i> (Oxford: Basil Blackwell, 1990), Chapter 7	102

2 Oct. Week 4: Mistakes

<i>D.P.P. v. Morgan</i> , [1976] A.C. 182 (H.L.)	133
<i>Pappajohn v. R.</i> (1980), 52 C.C.C. (2d) 481 (S.C.C.)	152
<i>R. v. Nguyen</i> ; <i>R. v. Hess</i> (1990), 59 C.C.C. (3d) 161 (S.C.C.)	171
Toni Pickard, "Culpable mistakes and rape: Relating mens rea to the crime" (1980) 30 U.T.L.J. 75	187

9 Oct. Week 5: Subjective and Objective Standards

<i>R. v. Creighton</i> (1993), 23 C.R. (4th) 189 (S.C.C.)	200
H.L.A. Hart, "Negligence, Mens Rea, and Criminal Responsibility", in <i>Punishment and Responsibility</i> (Oxford: Clarendon Press, 1968) 136	231

II. Fault and Criminal Responsibility

16 Oct. Week 6: Punishment

<i>Lyons v. The Queen</i> (1987), 37 C.C.C. (3d) 1 (S.C.C.)	247
<i>R. v. Shropshire</i> (1995), 102 C.C.C. (3d) 193 (S.C.C.)	264
<i>R. v. M. (C.A.)</i> (1996), 105 C.C.C. (3d) 327 (S.C.C.)	274

23 Oct. Week 7: A Kantian Approach

Immanuel Kant, <i>The Metaphysics of Morals</i> , trans. Mary Gregor (Cambridge: Cambridge University Press, 1991), selections	278
Jeffrie Murphy, "Kant's Theory of Criminal Punishment", in <i>Retribution, Justice and Therapy</i> (Boston: D. Reidel, 1979) 82	297

30 Oct. Week 8: A Hegelian Approach

Alan Brudner, "Agency and Welfare in Penal Law", in <i>The Unity of the Common Law</i> (Berkeley: University of California Press, 1995) 213	304
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6 Nov. Week 9: A Consequentialist Approach

Oliver Wendell Holmes, <i>The Common Law</i> (Boston: Little, Brown, 1881) 39-76	349
George Fletcher, <i>Rethinking Criminal Law</i> (Boston: Little, Brown, 1978), §6.3, §6.6, §6.8	364

13 Nov. Week 10: An Economic Approach

Richard Posner, "An Economic Theory of the Criminal Law" (1985) 85 <i>Columbia L.Rev.</i> 1193	392
Jules L. Coleman, "Crime, Kickers, and Transaction Structures", in J. Roland Pennock & John W. Chapman, eds., <i>Nomos XXVII: Criminal Justice</i> (New York: New York University Press, 1985) 313	409

20 Nov. Week 11: Fault and the Constitution

<i>R. v. Martineau</i> (1990), 58 C.C.C. (3d) 353 (S.C.C.)	421
<i>R. v. Daviault</i> (1994), 93 C.C.C. (3d) 21 (S.C.C.)	435
Alan Brudner, "Proportionality, Stigma, and Discretion" (1996) 38 <i>C.L.Q.</i> 302	453

(In addition, you should review *Creighton*, *supra*.)

27 Nov. Week 12: Objective Standards for Defences

<i>R. v. Hibbert</i> (1995), 99 C.C.C. (3d) 193 (S.C.C.)	469
<i>R. v. Hill</i> (1986), 25 C.C.C. (3d) 322 (S.C.C.)	484